

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

MORTGAGE ELECTRONIC REGISTRATION)
SYSTEMS, INC.,)

Plaintiff,)

v.)

Civil No. 05-40112

ESTATE OF TIMOTHY BARLOW, LORI)
A. BARLOW, THE COMMONWEALTH OF)
MASSACHUSETTS, DEPT. OF REVENUE,)
and UNITED STATES OF AMERICA,)

Defendants.)

UNITED STATES' ANSWER

The United States, by its undersigned counsel, responds to the specific allegations of the complaint as follows:

1. *The Plaintiff, MERS, is a corporation with a mailing address of P.O. Box 2026, Flint, Michigan 48501-2026.*

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the complaint.

2. *The Defendant, Estate of Timothy Barlow, has a last known address of 71 Godfrey Lane, Milford, Massachusetts 01757.*

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint.

3. *The Defendant, Lori Barlow, is, upon information and belief, an individual with a last known address of 71 Godfrey Lane, Milford, Massachusetts 01757.*

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the complaint.

4. *The Defendant, The Commonwealth of Massachusetts, Department of Revenue, is upon information and belief, a state agency with a last known address of c/o Eileen Ryan McAuliffe, Counsel for the Commissioner, Litigation Bureau, 7th Floor, 100 Cambridge Street, P.O. Box 9565, Boston, MA 02114-9565.*

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the complaint.

5. *The Defendant, the United States of America, c/o Internal Revenue Service who is upon information and belief a federal agency c/o Brenda Hyde, Special Procedures, P.O. Box 9112, Stop 20800, J.F.K. Post Office, Boston, MA 02203.*

RESPONSE: The United States admits that it is a proper defendant on behalf of its agency the Internal Revenue Service, and that the IRS maintains an office as indicated above, but avers that this is not the proper address for service upon the United States of America.

6. *The Plaintiff, MERS, was the holder by assignment of a first mortgage given by Timothy Barlow and Lori A. Barlow to Milford Savings Bank, dated April 9, 1986 and recorded April 11, 1986 at 1:12 p.m. in Book 9349 at Page 211 in the Worcester County (Worcester District) Registry of Deeds, securing the real estate located at 9 Trinity Drive, Milford, Massachusetts 01757 ("the property").*

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the complaint.

7. *On February 26 2004, MERS foreclosed on the mortgaged property by public auction pursuant to the statutory power of sale.*

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the complaint.

8. *The mortgaged property was sold to a third party for \$199,000.00.*

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the complaint.

9. *After satisfaction of indebtedness to the Plaintiff, including costs of foreclosure and sale, accrued interest and late charges in the aggregate sum of \$43,880.17, there is surplus now held by the Plaintiff in the amount of \$155,119.83. See Exhibit "A" attached hereto.*

RESPONSE: The United States admits that there is attached to the complaint an "Exhibit A." The United States is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 9 of the complaint.

10. *The following persons and entities appear of record to be all of the persons or entities having an interest in said funds held by Litton, to wit:*

(a) *Defendant, the Estate of Timothy Barlow, is the former holder of the equity of redemption.*

(b) *The Defendant, Lori A. Barlow, is the former holder of the equity of redemption.*

(c) *The Defendant, The Commonwealth of Massachusetts, Department of Revenue, may have a claim to a portion of the surplus funds due to the Estate of Timothy Barlow.*

(d) *The Defendant, United States of America, may have a claim to a portion of the surplus funds due to the Estate of Timothy Barlow.*

GENERAL RESPONSE: The United States is without knowledge or information regarding the entity referred to as “Litton” in paragraph 10 and is thus unable to admit or deny the allegation that the funds at issue in this proceeding are held by said entity.

SPECIFIC RESPONSE:

10(a) The United States is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10(a) of the complaint.

10(b) The United States is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10(b) of the complaint.

10(c) The United States is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10(c) of the complaint.

10(d) The United States admits that it may have an interest in the proceeds due to the Estate of Timothy Barlow, and further avers that it may have an

interest in the proceeds due to an unpaid federal income tax liability for the 2001 tax year.

WHEREFORE, the United States of America requests (1) that the plaintiff be ordered to deposit all of the surplus funds with the Court; (2) that its interests be paid pursuant to the priority determined by this Court with respect to the surplus funds; (3) that the plaintiff's request for payment of its costs and fees from the surplus fund be denied to the extent those funds are owed to the United States; and (4) such other relief as this Court deems just and proper.

I hereby certify that a true copy of the above document was served upon (each party appearing pro se and) the attorney of record for each other party by mail on

7/26/05 - /s/ Lydia B. Turanchik

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

/s/ Lydia Bottome Turanchik
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